

Important Notice Regarding the Income Tax Withholding Rate

This *Income Tax Withholding Guide* contains references to a 3.9 percent withholding rate, which under recent legislation will not be effective until **July 1, 2004**. All other information in this guide is effective January 1, 2004.

The current income tax withholding rate of 4.0 percent remains in effect through **June 30, 2004**.

Income Tax Withholding Guide

MICHIGAN

Income Tax Withholding Guide

P.A. 281 OF 1967 (as amended)



The Withholding Rate for calendar year 2004 is 3.9%.

The personal exemption amount for calendar year 2004 is \$3,100.

This Booklet Contains:

- Instructions for withholding Michigan income tax from compensation paid to an employee. See page 2.
- Formula for computing withholding. See page 3.
- New Income Tax Withholding Tables for determining withholding. See page 6.
- **Michigan employers may file the *Employee's Michigan Withholding Exemption Certificate* (MI-W4) with the New Hire Operations Center as a means of meeting their obligation to report their newly hired employees (MI-W4 and New Hire Reporting Form included).**

Choose the convenience of EFT

If you choose to make all your payments by Electronic Funds Transfer (EFT), Treasury waives the monthly or quarterly requirement for a paper return. You simply transmit your payment each month and avoid the hassle of filing a paper return. This booklet includes information on remitting your tax payments by using Electronic Funds Transfer.

For questions or information, contact:

Michigan Department of Treasury
Lansing, MI 48922
517-636-4730

Persons who are deaf, hard of hearing
or have a speech impairment call
517-636-4999 (TTY).

www.michigan.gov/treasury



Please recycle this booklet.

IMPORTANT INFORMATION

CHOOSE THE CONVENIENCE OF FILING BY ELECTRONIC FUNDS TRANSFER (EFT)

Using EFT to submit your Sales, Use and Withholding tax payments eliminates the requirement to file monthly or quarterly paper returns, with the exception of the Annual Return (Form 165). An EFT application (Form 2248 or 2328) must be completed and signed by an officer giving his or her title and returned to Treasury. To find out more about the EFT process, contact the Sales, Use and Withholding Taxes EFT Unit at 517-636-4730; or visit Treasury's Web site for more information:
www.michigan.gov/treasury

WITHHOLDING ON NONRESIDENT GAMBLING WINNINGS

Effective October 1, 2003, Michigan withholding is required on all reportable winnings by nonresidents at Michigan casinos, racetracks, or off-track betting facilities. Reportable winnings are those winnings required to be reported to the Internal Revenue Service (IRS) under the Internal Revenue Code. To calculate Michigan withholding, multiply the amount of reportable winnings by the applicable income tax rate (4.0 percent in 2003, 3.9 percent in 2004). Include the amount withheld on the recipient's Form W-2G.

FLOW-THROUGH ENTITIES

Effective October 1, 2003, flow-through entities (S-corporations, partnerships, limited partnerships, limited liability companies, and limited liability partnerships) are required to withhold Michigan income tax on the taxable income available for distribution to nonresident members.

The amount of withholding is calculated and remitted on a quarterly basis by multiplying the share of taxable income allocable to each member, adjusted for the allowable exemption amount for a quarter, times the income tax rate (4.0 percent for 2003, 3.9 percent for 2004).

A flow-through entity is also required to withhold Michigan income tax when one or more of the entity's members is a nonresident flow-through entity. The flow-through entity in Michigan shall withhold Michigan income tax from any such nonresident flow-through entity on behalf of all of the nonresident members.

W-2 REPORTING ON MAGNETIC MEDIA

Employers with 250 or more Michigan employees are required to file MI-W-2 information on magnetic media.

Effective January 1, 2002 it is mandatory for Social Security Administration (SSA) reporting to use the MMREF-1 format as published by the U.S. Department of Health and Human Services dated May, 2001. The State of Michigan accepts both the TIB-4 (current state format) and the federal MMREF-1 format. **If you choose to send a copy of your federal filing, you must be sure that the Code RS State Record (optional for federal reporting) is filled in.** If you have questions, or for more information, contact the Magnetic Media Unit at 517-636-4456.

For W-2G and 1099 reporting specifications, see Form 447. You may obtain a copy of Form 447 by calling the Magnetic Media Unit or visiting Treasury's Web site:
www.michigan.gov/treasury

GENERAL INFORMATION

PURPOSE

This guide provides instructions, general information and a summary of the employer's responsibilities for withholding Michigan income tax from compensation paid to employees. (See **Compensation**, page 3.)

WHO MUST WITHHOLD

Every employer in this state who is required to withhold federal income tax under the Internal Revenue Code, must withhold Michigan income tax.

REGISTRATION AND ACCOUNT IDENTIFICATION

Every person or organization becoming an employer must register with the Michigan Department of Treasury by completing a *Michigan Business Taxes Registration* (Form 518).

The Michigan employer identification number is usually the same as the

federal employer identification number assigned by the IRS.

If you have not been assigned a federal number, Treasury will assign a number. You must give Treasury your federal number as soon as it is assigned.

Any changes in the federal identification number must be reported to Treasury immediately. When acquiring a business, do not use the number assigned to the previous employer.

WHO IS AN EMPLOYER

An employer is defined in the Federal Employer's Tax Guide, Circular E, as any person or organization for whom an individual performs any service as an employee. This includes any person or organization paying compensation to a former employee after termination of their employment.

Nonprofit organizations that are exempt from income tax, such as charitable, religious and government organizations, must withhold tax from compensation paid to their employees.

Employers located outside Michigan, who have employees working in Michigan must register with Treasury and withhold Michigan income tax from all employees working in Michigan. This applies to both Michigan residents and nonresidents. (See **Reciprocal Agreements**, page 4.)

Employers located in Michigan, assigning a Michigan resident employee to work temporarily in another state must withhold Michigan income tax from compensation paid to the employee for work done in another state.

WHO IS AN EMPLOYEE

An employee is an individual who performs services for an employer who controls what will be done and how it will be done. It does not matter that the employer permits the employee considerable discretion and freedom of action, as long as the employer has the legal right to control both the method and the result of the services.

For further clarification of the term "employee," see the Federal Employer's Tax Guide, Circular E.

EMPLOYEE EXEMPTIONS

MI-W4 Withholding Exemption Certificate

Every employer must obtain an MI-W4 Exemption Certificate from each employee. The federal W-4 cannot be used in place of the MI-W4.

The 2004 exemption amount is \$3,100 per year times the number of personal and dependency exemptions allowed under the Internal Revenue Code. An employee may not claim more exemptions on the MI-W4 than can be claimed on the employee's federal income tax return.

Michigan has additional special exemptions that are claimed on a taxpayer's Michigan income tax return, not on an MI-W4. The exemptions on the MI-W4 are limited to the number of federal exemptions.

The MI-W4 enables employees to claim exemption from Michigan income tax withholding. Employees may claim exemption from withholding only if they do not anticipate a Michigan income tax liability for the current year because their employment is less than full time and the personal and dependency exemptions exceed their annual compensation.

Any changes made to an MI-W4 invalidate the form. Any writing on the certificate other than entries required is considered a change.

If you receive an invalid certificate, do not consider it to compute withholding. You must inform the employee who submitted the certificate that it is invalid and require the employee to

Payroll Period

	Allowance per Exemption
Weekly	\$ 59.62
Bi-weekly (every 2 weeks)	119.23
Semi-monthly (twice/month)	129.17
Monthly	258.33
Quarterly	775.00
Semi-annually	1,550.00
Annually	3,100.00
Per day	8.49

Withholding Formula

Withholding =

[Compensation - (Allowance per Exemption x No. of Exemptions)] x 3.9%

Example: A worker earning \$600/week with 3 exemptions would have the following withholding.

$$[\$600 - (\$59.62 \times 3)] \times 3.9\% \\ (\$600 - \$178.86) \times .039 = \$16.42$$

submit a correct Withholding Exemption Certificate. If the employee does not comply, withhold from the employee's total compensation based on zero exemptions. If a prior valid certificate is in effect, continue to withhold in accordance with the prior valid certificate.

SENDING CERTAIN MI-W4 CERTIFICATES

Under P.A. 169 of 1982, employers must submit to Treasury a copy of any MI-W4 received from employees who:

- claim 10 or more exemptions, or
- claim exempt from withholding tax.

Employers must also submit the MI-W4s for employees who change their withholding status to exempt.

Do not send copies of exemption certificates filed by:

- part-time or student employees whose expected earnings will be less than their exemption allowance.
- employees who claim exempt because they live in a reciprocal state, or
- employees who claim exempt for a stated time (e.g., two pay periods.)

Use the official MI-W4 form only; do not send copies of the federal W-4. The form is due 20 days after the employee is hired (i.e., the date the employee starts work.)

Mail MI-W4s only to:

New Hire Operations Center
P.O. Box 85010
Lansing, MI 48908-5010

Submit only one MI-W4 if the employee claiming exemption is a new employee. However, if you report your New Hire information magnetically or electronically, also send a paper copy of the MI-W4 for these employees to the address above. See page 5 "Reporting Newly Hired Employees."

Do not attach MI-W4 forms to the Sales, Use and Withholding tax return. Include copies of any written statement or explanation from the employee supporting the claim made on the MI-W4.

COMPENSATION

The term "compensation," as used in this guide, covers all types of employee compensation including salaries, wages, vacation allowances, bonuses and commissions (as defined in the Federal Employer's Tax Guide, Circular E, Taxable Wages).

FRINGE BENEFITS

Reporting and withholding on fringe benefits follows federal guidelines as provided in the Federal Employer's Tax Guide, Circular E. Examples of fringe benefits include 401(k) plans, deferred compensation, profit sharing and cafeteria benefit plans.

SUPPLEMENTAL

UNEMPLOYMENT BENEFITS

Any employer required to withhold federal income tax from supplemental unemployment compensation benefits must also withhold Michigan income tax. Michigan follows the federal procedure regarding Employee Withholding Exemption Certificates.

HOW MUCH TO WITHHOLD

Determine the amount of tax withheld using a direct percentage computation or the withholding tables in this book.

The withholding rate is 3.9 percent of compensation after deducting the personal and dependency exemption allowance. If you prefer to compute a direct percentage, refer to the formula on page 3.

RECIPROCAL AGREEMENTS

Employers located in Michigan must withhold Michigan income tax from all compensation paid to nonresident employees for work done in Michigan, unless covered by a reciprocal agreement.

Michigan has entered into reciprocal agreements with the states of Illinois, Indiana, Kentucky, Minnesota, Ohio and Wisconsin. This means that a Michigan employer will not withhold Michigan income tax from residents of these states who work in Michigan. Employers in Illinois, Indiana, Kentucky, Minnesota, Ohio and Wisconsin will not withhold their state income tax from Michigan residents who work in their state. However, such employers may voluntarily register with the Michigan Department of Treasury to withhold Michigan income tax from Michigan residents who work in their states.

CERTIFICATE OF NONRESIDENCY

The Michigan Department of Treasury does not furnish nonresidency certificates. The employer may develop a form or obtain a letter from the employee. The form or letter should contain the employee's name, legal address, Social Security number and a statement signed and dated by the

employee that this is his or her legal address. The employer keeps the form as their authority not to withhold Michigan income tax.

REPORTING AND PAYING AMOUNTS WITHHELD

The Michigan Department of Treasury mails personalized returns with instructions to all registered taxpayers. The return is a combined Sales, Use and Withholding taxes return. Do not use returns personalized for another taxpayer to report and pay your tax.

Employers not liable for sales or use tax should complete only the withholding tax section on the return.

Follow the filing instructions enclosed with the personalized returns.

Taxpayers averaging more than \$40,000 a month in income tax withholding will be notified of a requirement to pay on an accelerated schedule. Taxpayers meeting this threshold must make their payments using Electronic Funds Transfer (EFT).

If you need tax forms, contact Treasury at the telephone number listed on the cover of this book.

BONUSES & OTHER PAYMENTS

Bonuses and other payments of taxable employee compensation made separate from regular payroll payments are subject to Michigan income tax withholding. For payments made during 2004, the withholding amount equals the payment amount multiplied by 3.9% (.039). Do not make any adjustment for exemptions.

STATEMENT OF WAGES & TAXES WITHHELD (W-2)

Every employer must furnish to each employee before January 31 of the succeeding tax year an annual statement (W-2) giving name, address, Social Security number, gross earnings and Michigan income tax withheld.

Employers may use one of the IRS approved combined W-2 forms available commercially.

ANNUAL RETURN

You must reconcile your income tax

withheld every year. To do this, file the combined *Annual Return for Sales, Use and Withholding Taxes* (Form 165). Employers not liable for sales or use tax should complete only the withholding tax section of the return. A copy of the combined W-2 and a copy of the third party sick pay W-2 furnished to each employee must accompany the annual return. Do not send 1099 forms unless they include Michigan withholding tax information.

If an employee quits or is fired before the end of the calendar year and is not expected to return to work within the calendar year, a combined W-2 must be given to the employee no later than 30 days after the last payment of compensation.

If after reasonable effort, you are unable to deliver the W-2s to an employee, follow the instructions in the Federal Employer's Tax Guide, Circular E.

EMPLOYER DISCONTINUANCE

If you go out of business or permanently stop being an employer, you must do all of the following:

- File a final monthly or quarterly return and pay all money due within 15 days after you discontinue business.
- Furnish a completed combined W-2, Wage and Tax Statement, to each employee by January 31.
- Complete and file with the Michigan Department of Treasury the combined *Annual Return for Sales, Use and Withholding Taxes* (Form 165) by February 28. Also include the State of Michigan copy of the combined W-2 as furnished to each employee.

SUCCESSOR LIABILITY

If you sell your business, your successor must hold enough of the purchase money to satisfy the amount of sales, use or withholding tax that may be due until you produce a receipt for payment of the tax from Treasury or a certificate stating that no tax is due. If the successor fails to withhold

sufficient funds, he or she may be held liable for any debts.

OFFICER LIABILITY

Officers, members, managers, or partners of a corporation, limited liability company, limited liability partnership, partnership, or limited partnership who have control of filing returns and of making payments are personally liable for failure to file or for unpaid taxes, penalty and interest under P.A. 169 of 1982.

VOLUNTARY WITHHOLDING ON PENSION, ANNUITY AND THIRD PARTY PAYMENTS

Michigan permits voluntary income tax withholding from certain pension, annuity and third party sick pay payments if the payee requests it on a form provided by the payer. Treasury does not provide a form for this, but the amount requested to be withheld from the annuity payment must be a whole dollar amount of at least \$5 per month, which does not reduce the net amount of any annuity payment received by the payee below \$10. The payments must be payable over a period longer than one year.

A recipient may not request withholding on payments that are not subject to Michigan income tax. This includes any retirement or pension benefits received from a public retirement system created by the State of Michigan or any of its political subdivisions. It also includes any retirement or pension benefits received from Michigan public schools or from the federal government.

CORRECTING W-2 ERRORS

If you find an error in a W-2 after it has been issued to the employee, do not issue a corrected W-2 for less withholding than was on the original W-2. This type of correction must be handled between the employer and the employee or by the employee on the *Michigan Income Tax Return* (Form MI-1040). Refund requests for this error should **not** be submitted using an amended *Annual Return for Sales, Use and Withholding Taxes* (Form 165).

If the error was for more withholding than was on the original W-2, issue a corrected W-2 and send a copy to Treasury. The corrected form should be clearly marked "Corrected by Employer."

If a withholding error is discovered in the same calendar year as the error was made, adjust a later paycheck and make the same adjustment in the next payment due Treasury.

If an issued W-2 is lost or destroyed, give the employee a substitute copy clearly marked "Reissued by Employer."

RECORDS YOU MUST KEEP

You must keep all records pertinent to this tax available for inspection by Treasury. The records are similar to those necessary for federal income tax withholding as shown in the Federal Employer's Tax Guide, Circular E.

Records must show the amounts and dates of all compensation payments subject to this tax. Include employee name, address, Social Security number, *Employee's Michigan Withholding Exemption Certificate* (MI-W4), occupation and period of employment. Include records that show periods an employee was paid by the employer while absent from work due to sickness or personal injury. Show the amount and weekly rate of such payments. Keep duplicates of all returns filed.

These records must be kept at least six years after the date the tax to which they relate becomes due or the date the tax is paid, whichever is later.

PENALTIES

If you do not file a return or pay withheld taxes on time, you will be assessed with statutory penalties and interest.

REPORTING NEWLY-HIRED EMPLOYEES

The Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires all employers to report newly-hired employees. You must report the employee's name, address and Social Security number,

and the employer's name, address and federal employer identification number. This information must be reported within 20 days after the employee is hired (i.e., the date the employee starts work).

To simplify New Hire reporting, Treasury encourages employers to take advantage of the on-line Internet reporting available on the Web at: www.new-hires.com/mi.

Employers may also report using the *Employee's Michigan Withholding Exemption Certificate* (Form MI-W4), magnetic tape, paper lists, computer reports, or electronic transmission. You are encouraged to report electronically whenever possible. The New Hire Operations Center will work (free of charge) with any employer wishing to provide data electronically. Multi-state employers may choose to report all new hires to only one state, but they must report electronically and notify the U.S. Department of Health and Human Services.

For more information on New Hire reporting, call 1-800-524-9846. If you choose to report on paper, send the reports to:

New Hire Operations Center
P.O. Box 85010
Lansing, MI 48908-5010

Paper reports may also be faxed to: 517-318-1659.

The MI-W4. The *Employee's Michigan Withholding Exemption Certificate* (MI-W4) includes renaissance zone residents. If you need a form for your employees, visit the Treasury Web site at www.michigan.gov/treasury or call toll-free 1-800-827-4000 to have tax forms mailed to you.

Michigan Department of Treasury
Lansing, MI 48922

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